G. R. S. IX-5]

Previous references.

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GENERAL AND REVENUE SECRETARIAT.

✓

Serial Nos. 344

Part B for May 1922

SUBJECT.

Permanent acquisition of non-residential property & long lease immoveable property in British India by Ruling Princes.

To

The Diwan of Indore

No. 6801 dt 3-5-22

Send a memorandum which contains the views of Hyderabad Govt. in regard to the purchase of Immoveable Property by Ruling Princes & Chiefs in British Indi

WD 1888—GPB—16,826—23-7-21

CB-3961

PRIVATE SECRETARY MYSORE

Mysore
15th. 4. 22

Do No 298
Encl three

My dear Sir,

I am directed to send you herewith letter etc, rec'd from Sir M. Kantaraj Urs, for favour of disposal.

16 APR 1922

Yours sincerely
[illegible]
M. Somasekhara Iyer

A. R. Banerji Esq
C.S.I. C.S.

V/164

12/4
17/4

3961

DEWAN'S OFFICE.
Recd. on APR 21 1922
Reg. No. 5729

Draft Subd
Y. Nm
12/4

Merchant princes of
about non-industrial import.
Items and this about industries
import. Merchants were
represented
18/4

Draft added to Subd with
Refs
Y. Nm
18/4

draft submitted
2/4
(Imam)

Approved by the
Dewan on 30-4.
To Issue 1/5

BHAVANI HOUSE,
FERNHILL, NILGIRIS,

10.4.1922.

My dear Sir Krishna

I write to acknowledge with thanks your confidential letter of the 5th instant together with its enclosures. Please submit my respectful thanks to His Highness for so graciously ordering the copies of correspondence to be sent to me for my information, which gracious act, I highly appreciate.

I am also sending herewith in original letter together with its enclosure received from the Dewan of Indore for such action as you may deem fit to take. I have written to him to say

Bombay 5.4.22

INDORE,

The th March 1922.

P.P. 403-21-3

My dear Sir

As you are doubtless well aware the acquisition of residential and other immoveable property in British India by Ruling Princes and Chiefs has been before the Chamber of Princes, and their Committee has now formulated certain proposals to the Government of India with a view to the removal of restrictions which exist in this behalf. As His Highness the Maharaja of Mysore happens to hold such properties in British India, your Government must no doubt have settled its views on the subject. If so, I would ask that, if there be no objection, they may be communicated to me. I am enclosing for your information a copy of the Memo which

contains the views of this Government on the subject.

I should also be glad if you would kindly give an idea as to the conditions to which your Government had to subscribe before the acquisition of properties as above in British India.

Yours Sincerely

M Venkatesh

To,

Raja Sevadhurina Sir M. Kantaraj Urs,
K.C.I.E., C.S.I,

Dewan Mysore.

B.G.B.

NOTE.

Views of His Highness's Government regarding purchase of Immoveable Property by Ruling Princes and Chiefs in British India.

Residential Property.

A.

Paragraph 1. Draft summary finally amended.

(1) It is of course open to the British Government by Legislation in British India to enact that no Indian State shall acquire any property either in Presidency Towns or Hill Stations without previous sanction of the Executive Government of India. Such Law will be binding upon any such State who might purchase such property. If therefore the Indian Legislature as now constituted enact such a Law His Highness's Government has no doubt that these Indian States will regard such an expression of British Indian popular opinion with great regret but they will acquiesce in such a decision hoping that at some later time British Indian opinion may be more favourably inclined towards them and they will repeal that Law. But His Highness's Government feel confident that popular opinion through the Legislative Council will not impose such an indignity upon Rulers of their own nationality.

(2). This Government must of necessity submit to any order by His Excellency the Viceroy requiring the previous sanction of the Government of India or any local Government for acquisition of any property in British India. The law of British India or the International Law, as administered in Europe, as His Highness's Government is advised, does not require such sanction; and if any acquisition is made by His Highness, this

Government is advised, such acquisition will be valid and the property will be vested in him in spite of any order which the Government of India on its executive side might promulgate. In these circumstances this Government sincerely hopes that His Highness the Maharaja will not be treated as an undesirable alien so far as the purchase of property by him in Presidency Towns and Hill Stations is concerned. The reasons which are apparently relied on have of course no force, as all difficulties, if any are provided for by provisions in the Civil Procedure Code; and Benami purchases are made to avoid even a reference to Rulers' case in Civil Courts of India, and the Rulers are quite willing to take the consequences. The validity of this argument seems to have been accepted by those who proposed to frame the rules in this behalf, as the Ruling Prince is allowed to purchase the properties elsewhere in India without such sanction.

Original summary.

Paragraph I, 1,2,3.

Note under I of Draft summary.

Draft summary II.

(3) As to the rule requiring that no incumbrance etc, should be created on properties purchased outside the Presidency Towns and Hill Stations, the grounds which have been advanced in support of these restrictions, that is, the inconveniences that might arise if litigation might be ~~resorted~~ resorted to, have been already dealt with in paragraph 2.

Foot note.

(4) As all the local Governments have accepted and as the Imperial Government is unwilling to accept the view suggested that no income tax should be levied from Rulers on account of their property which they hold in British India this Government does not consider it necessary to take

state the objections to the levy of such tax.

B.

(5) With reference to the necessity of the permission to acquire Residential property outside the Presidency Towns and Hill Stations, the matter so far as the claim of the Ruling Princes is concerned stands on the same footing as the purchase of the property in Presidential Towns and Hill Stations; and the observations made above apply to this, purchase also.

Summary amended in the meeting of 1st April 1921.

Paragraph 7.

Paragraph 5.

(6) As regards the further provision that the purchasing Ruler will be subject to the rules and jurisdiction of the Courts so far as such property is concerned, His Highness's Government is advised that, in the unqualified form in which the proposition is put in the memorandum under reference, it goes far beyond any rules of International Law, and also any Law of British India, and if the consent of His Highness is necessary for the exercise of any jurisdiction by the Civil Courts in British India over his property His Highness is unwilling to give such general consent

C.

(7) As regards long leases of Residential property by Indian Chiefs His Highness's Government accepts the conditions herein noted viz: that they acknowledge their obligations to be sued as stated therein and also that they shall have to appoint an Agent. The State has also no objection to the provision that local Government should ordinarily be previously informed unless circumstances make this course impracticable, of the intention to take a lease for a long period of residential property within its jurisdiction.

E.G.P.

F. R. S. G/33]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

6891/PP 103-21-4
93/22
No 21

The Dewan of
Travancore

My dear Sir,

With ref: to
your D.O. letter of
(date) address
to Sir M. Kaularaj on
I send herewith a Memorand
a Copy of
which contains the views
of this Govt in
regard to the purcha
of Immoveable Prope
by Ruling Princes an
Chiefs in British Ind

Yours Sincere

M
30/

Dewan
2/

2230—GPB—1,00,000—23-7-20

M e m o

Purchase of Immoveable Property by Ruling Princes and Chiefs in British India.

31 Acquisition of Residential Property.

The Durbar while agreeing to the adoption of the draft rules, as finally amended in the light of the Proceedings of the Committee of Princes dated 27th January 1920 have suggested that the Govt. of India may see their way to relax the restriction still further in regard to Presidency towns. It must be remembered that not only in Presidency towns, but even in Hill Stations, a large proportion of residential houses are owned by Indians and it seems obviously desirable to eliminate, as far as possible, the invidious distinctions which now exist between Rulers of Indian States and Indians of lower rank, in this respect. While there is much that may be said in favour of the present policy in regard to Hill Stations, there seems, in the opinion of the Durbar, to be really no necessity for any restriction so far as Presidency towns are concerned, so long as Ruling Princes (or their near relatives) desirous of purchasing house property in these towns, do so for their own bona fide residential purposes, and not with a view to renting or deriving any

income from them, and are willing to subject themselves, or their Agents, "in all respects to British Jurisdiction" and to undertake not "to transfer or create any encumbrances on it without the previous consent of the Govt. of India or the local Government or Administration'..

VC

~~4. As regards the~~ 4. Acquisition of non-residential property.- The Durbar while generally agreeing with the views expressed by the standing Committee of Princes at their meeting held on the 1st April 1921, have made the following suggestions in respect of para 5 of B "Permanent acquisitions of non-residential property," and in respect of C "Long leases of residential property:"-

B. 5. It is more desirable to provide for the nomination of an Agent for the property in every case and subject him to the jurisdiction of the British Indian Courts than to subject a Ruling Prince to such jurisdiction. This paragraph may accordingly be amended as follows:-

"5 (a) In the case of the acquisition of non-residential property in British India by a Ruling Prince or Chief, an Agent will invariably be nominated to represent him in respect of that property.

(b) The Agent so nominated in the case of properties owned by a Ruling Prince, and nobles of Indian States owning property in British India will be subject to British jurisdiction as regards the property concerned and [and] decree or order passed against the Agent shall be binding on the Ruling Prince."

C. The summary evidently implies that there are to be no restrictions in the matter of long leases of residential property in British India by Notables of Indian States. This may be made clear. The order of the paragraphs in this section may also be rearranged, the present first paragraph being suitably amended on the same lines as paragraph B 5, as follows:-

"C. Long leases of residential property in Br. India.

....

As regards long leases of immovable property in British India for residential purposes, there are no restrictions in respect of leases by notables of Indian States. The Government of India have no objection also to the execution of such leases in favour of a Ruling Prince or Chief provided that -

(1) the Ruling Prince or Chief will appoint a responsible agent in the locality in which the property is acquired to answer to the authorities in case of need

(2) that the Ruling Prince or Chief understands that his Agent may be sued with reference to such property in Br. Indian Courts,

(3) that Local Govt. and Administrations should ordinarily be previously informed unless circumstances make the course impracticable, of the intention to take a lease for a long period of residential property within their

jurisdiction